



DEPARTMENT OF THE INTERIOR

Office of the Secretary

[134D0102DM DMSN00000.000000 DS68200000 DX68201DAGENLAM]

Privacy Act of 1974, as amended; Notice to Amend an Existing System of Records

AGENCY: Office of the Secretary, Interior.

ACTION: Notice of amendment to an existing system of records.

SUMMARY: Pursuant to the provisions of the Privacy Act of 1974, as amended, the Department of the Interior is issuing public notice of its intent to amend the Office of the Secretary Privacy Act system of records, "Hearings and Appeals Files — Interior, OS-09". The amendment will update the system location, categories of records, routine uses of records maintained, policies and practices for storing, retrieving, accessing, retaining and disposing of records, and citations to amended Department of the Interior regulations.

DATES: Comments must be received by **[INSERT DATE 40 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]**. The amendments to the system will be effective **[INSERT DATE 40 DAYS AFTER PUBLICATION IN THE FEDERAL REGISTER]**.

ADDRESSES: Any person interested in commenting on this notice may do so by: submitting comments in writing to Teri Barnett, Departmental Privacy Officer, 1849 C Street NW, Mail Stop 5547 MIB, Washington, DC 20240; hand-delivering comments to Teri

Barnett, Departmental Privacy Officer, 1849 C Street NW, Mail Stop 5547 MIB, Washington, DC 20240; or e-mailing comments to *Privacy@ios.doi.gov*.

FOR FURTHER INFORMATION CONTACT: Director, Office of Hearings and Appeals, 801 N. Quincy Street, Suite 300, Arlington, Virginia 22203, or by telephone at 703-235-3810.

SUPPLEMENTARY INFORMATION:

I. Background

The Department of the Interior (DOI), Office of Hearings and Appeals (OHA), maintains the “Hearings and Appeals File — Interior, OS-09,” system of records. The primary purpose of this system is to support the adjudication or other resolution of administrative disputes assigned to OHA. The amendments to the system will include updating the system location, categories of records, routine uses of records maintained, and policies and practices for storing, retrieving, accessing, retaining and disposing of records, as well as updating citations to amended DOI regulations. The categories of records in the system is being updated to delete a reference regarding contract disputes considered and decided by the Interior Board of Contract Appeals, which was replaced by Congress with the Civilian Board of Contract Appeals (Sec. 847, Pub. L. 109-163, 119 Stat. 3391), and to add a reference to hearings in hydropower licensing proceedings (43 CFR part 45). This system notice was last published in the Federal Register on November 27, 2006, 71 FR 68633.

The list of routine uses of records maintained in the system is being revised in several respects. Routine use (1) is expanded to cover not only parties and their authorized representatives but also intervenors, witnesses, parties’ family members, any other persons whose connections to the parties and/or the proceedings could warrant attendance and/or

participation at a hearing, and authorized representatives of any of these additional persons. Routine use (1) is also expanded to expressly include service lists as documents that may be disclosed. It is typical for service lists to show, among other things, the name and address of each party or party's representative.

Routine use (2) is added to permit disclosure of case docket lists that provide limited information on pending cases, such as, docket number, case title (which may be an individual's name), and docketed date. Finally, routine use (3) is added to permit disclosure of decisions and orders whose disclosure is not required under the Freedom of Information Act, 5 U.S.C. 552(a)(2).

The amendments to the system will be effective as proposed at the end of the comment period (the comment period will end 40 days after the publication of this notice in the Federal Register), unless comments are received which would require a contrary determination. DOI will publish a revised notice if changes are made based upon a review of the comments received.

II. Privacy Act

The Privacy Act of 1974, as amended (5 U.S.C. 552a), embodies fair information practice principles in a statutory framework governing the means by which Federal agencies collect, maintain, use, and disseminate individuals' personal information. The Privacy Act applies to records about individuals that are maintained in a "system of records." A "system of records" is a group of any records under the control of an agency for which information about an individual is retrieved by the name or by some identifying number, symbol, or other identifying particular assigned to the individual. The Privacy Act defines an individual as a U.S. citizen or lawful permanent resident. As a matter of policy, DOI extends administrative

Privacy Act protections to all individuals. Individuals may request access to their own records that are maintained in a system of records in the possession or under the control of the DOI by complying with DOI Privacy Act regulations at 43 CFR part 2, subpart K.

The Privacy Act requires each agency to publish in the Federal Register a description denoting the type and character of each system of records that the agency maintains, the routine uses that are contained in each system in order to make agency record keeping practices transparent, to notify individuals regarding the uses of their records, and to assist individuals to more easily find such records within the agency. The amended system notice for the “Hearings and Appeals Files — Interior, OS-09,” is published in its entirety below.

In accordance with 5 U.S.C. 552a(r), DOI has provided a report of this system of records to the Office of Management and Budget and to Congress.

III. Public Disclosure

Before including your address, phone number, email address, or other personal identifying information in your comment, you should be aware that your entire comment, including your personal identifying information, may be made publicly available at any time. While you can ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

Dated: May 4, 2015.

Teri Barnett,

Departmental Privacy Officer.

SYSTEM NAME:

Hearings and Appeals Files--Interior, OS-09.

SECURITY CLASSIFICATION:

Unclassified.

SYSTEM LOCATION:

(1) Director's Office and Appeals Boards, Office of Hearings and Appeals, 801 N. Quincy Street, Suite 300, Arlington, Virginia 22203.

(2) Probate Hearings Division, Office of Hearings and Appeals, BIA Building II, 1011 Indian School Road NW, Room 322, Albuquerque, New Mexico 87104.

(3) Departmental Cases Hearings Division, Office of Hearings and Appeals, 351 South West Temple St., Suite 6.300, Salt Lake City, Utah 84101.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals involved or otherwise identified in hearings and appeals proceedings before the Office of the Director, Appeals Boards, and Hearings Divisions of OHA.

CATEGORIES OF RECORDS IN THE SYSTEM:

Records in this system include information assembled in case files and docket systems pertaining to individuals involved in the categories of hearings and appeals proceedings listed below. The types of records vary from category to category and case to case, but may include correspondence, pleadings, and briefs; administrative record materials, other documentary evidence, and transcripts of testimony; notices, orders, and decisions issued by administrative law judges, administrative judges, and other deciding officials; and associated docket cards and docket system data entries. During the active consideration of a

case, records may also include deliberative process materials such as a judge's notes, draft orders or decisions, and comments on such drafts from other judges or staff. Records in the system may contain names, addresses, telephone numbers, family relationship information (including adoption and foster care relationship information), tribal enrollment information, and dates of birth of individuals involved or otherwise identified in hearings and appeals.

Categories of hearings and appeals proceedings covered by OS-09:

(1) Indian probate matters, considered and decided by the Probate Hearings Division, including determination of heirs, approval of wills, allowance of claims, and the purchase of decedents' interests in trust and restricted lands; and appeals in such matters, considered and decided by the Interior Board of Indian Appeals (IBIA).

(2) Heirship determinations under the White Earth Reservation Land Settlement Act of 1985, considered and decided by the Departmental Cases Hearings Division (DCHD); and appeals in such matters, considered and decided by IBIA.

(3) Appeals pertaining to administrative actions of the Bureau of Indian Affairs, considered and decided by IBIA.

(4) Contest proceedings and other hearings relating to the use and disposition of public lands and their resources, considered and decided by the DCHD, including land selections arising under the Alaska Native Claims Settlement Act; appeals in such matters, considered and decided by the Interior Board of Land Appeals (IBLA); and appeals from decisions of the Bureau of Land Management relating to the use and disposition of public lands and their resources, considered and decided by IBLA.

(5) Appeals from decisions of Departmental officials relating to the use and disposition of mineral resources in certain acquired lands of the United States and in the submerged lands of the Outer Continental Shelf, considered and decided by IBLA.

(6) Hearings in appeals relating to surface coal mining and reclamation operations, considered and decided by the DCHD; appeals in such matters, considered and decided by IBLA; and appeals from decisions of the Office of Surface Mining Reclamation and Enforcement relating to surface coal mining and reclamation operations, considered and decided by IBLA.

(7) Hearings related to mandatory conditions and prescriptions proposed for inclusion in hydropower licenses, considered and decided by the DCHD.

(8) Hearings and appeals in various matters considered and decided by the Director or his or her designees, including employee debt collection matters, requests for waiver of claims for erroneous payments, determinations of employee liability for loss or damage to government property, adjustment of rental rates for government quarters, acreage limitations under the Reclamation Reform Act, Relocation Assistance Act claims, enforcement actions under the Indian Gaming Regulatory Act, and Director's review matters under 43 CFR 4.5(b).

(9) Any other hearings or appeals proceedings conducted by OHA under statutes or Departmental regulations providing for a hearing and/or a right to appeal within the Department.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301, 551 et seq.; 16 U.S.C. 791 et seq.; 25 U.S.C. 2, 9, 372, 373, 373a, 373b, 374, 2201 et seq.; 30 U.S.C. chap. 2, 3, 3A, 5, 7, 16, 23, 25 and 29; 41 U.S.C. 7101 et seq.; 43 U.S.C. 315a, 1201, 1331 et seq., 1601 et seq., 1701 et seq.; 43 CFR parts 4, 30, and 45.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

The primary purpose of the Hearings and Appeals Files system of records is to support administrative determinations and adjudications assigned to OHA. Final opinions rendered in the adjudication of cases will be disclosed outside DOI as required by law and regulation (5 U.S.C. 552(a)(2), 43 CFR 2.1(g); 2.67(b)). In addition to those disclosures generally permitted under 5 U.S.C. 552a(b) of the Privacy Act, records or information contained in this system may be disclosed outside DOI as a routine use pursuant to 5 U.S.C. 552a(b)(3) as follows:

(1) To parties and their authorized representatives, as well as intervenors, witnesses, parties' family members, any other persons whose connections to the parties and/or the proceedings could warrant attendance and/or participation at a hearing, and authorized representatives of any of these additional persons, upon request or in the course of case adjudication, including persons in attendance at formal hearings (e.g., parties' family members), when the disclosure involves documents of record in the proceeding, including service lists but excluding documents protected from disclosure under 43 CFR 4.31.

(2) To the public of case docket lists that provide limited information on pending cases, e.g., docket number, case title, and docketed date.

(3) To the public of decisions and orders that are not required to be disclosed under 5 U.S.C. 552(a)(2), e.g., ALJ decisions and orders and IBLA orders, either in their original form or as redacted, if:

(i) Such disclosure would not cause a clearly unwarranted invasion of personal privacy; and

(ii) Such documents would not otherwise be exempt from disclosure under 5 U.S.C. 552(b).

(4)(a) To any of the following entities or individuals, when the circumstances set forth in paragraph (b) are met:

(i) The U.S. Department of Justice (DOJ);

(ii) A court or an adjudicative or other administrative body;

(iii) A party in litigation before a court or an adjudicative or other administrative body; or

(iv) Any DOI employee acting in his or her individual capacity if DOI or DOJ has agreed to represent that employee or pay for private representation of the employee;

(b) When:

(i) One of the following is a party to the proceeding or has an interest in the proceeding:

(A) DOI or any component of DOI;

(B) Any other Federal agency appearing before OHA;

(C) Any DOI employee acting in his or her official capacity;

(D) Any DOI employee acting in his or her individual capacity if DOI or DOJ has agreed to represent that employee or pay for private representation of the employee;

(E) The United States, when DOJ determines that DOI is likely to be affected by the proceeding; and

(ii) DOI deems the disclosure to be:

(A) Relevant and necessary to the proceeding; and

(B) Compatible with the purpose for which the records were compiled.

(5) To a congressional office in response to a written inquiry that an individual covered by the system, or the heir of such individual if the covered individual is deceased, has made to the office.

(6) To any criminal, civil, or regulatory law enforcement authority (whether Federal, state, territorial, local, tribal or foreign) when a record, either alone or in conjunction with other information, indicates a violation or potential violation of law – criminal, civil, or regulatory in nature, and the disclosure is compatible with the purpose for which the records were compiled.

(7) To an official of another Federal agency to provide information needed in the performance of official duties related to reconciling or reconstructing data files or to enable that agency to respond to an inquiry by the individual to whom the record pertains.

(8) To Federal, state, territorial, local, tribal, or foreign agencies that have requested information relevant or necessary to the hiring, firing or retention of an employee or contractor, or the issuance of a security clearance, license, contract, grant or other benefit, when the disclosure is compatible with the purpose for which the records were compiled.

(9) To representatives of the National Archives and Records Administration to conduct records management inspections under the authority of 44 U.S.C. 2904 and 2906.

(10) To state, territorial and local governments and tribal organizations to provide

information needed in response to court order and/or discovery purposes related to litigation, when the disclosure is compatible with the purpose for which the records were compiled.

(11) To an expert, consultant, or contractor (including employees of the contractor) of DOI that performs services requiring access to these records on DOI's behalf to carry out the purposes of the system.

(12) To appropriate agencies, entities, and persons when:

(a) It is suspected or confirmed that the security or confidentiality of information in the system of records has been compromised; and

(b) The Department has determined that as a result of the suspected or confirmed compromise there is a risk of harm to economic or property interest, identity theft or fraud, or harm to the security or integrity of this system or other systems or programs (whether maintained by the Department or another agency or entity) that rely upon the compromised information; and

(c) The disclosure is made to such agencies, entities and persons who are reasonably necessary to assist in connection with the Department's efforts to respond to the suspected or confirmed compromise and prevent, minimize, or remedy such harm.

(13) To the Office of Management and Budget during the coordination and clearance process in connection with legislative affairs as mandated by OMB Circular A-19.

(14) To the Department of the Treasury to recover debts owed to the United States.

(15) To agency contractors, grantees, or volunteers for DOI or other Federal Departments who have been engaged to assist the Government in the performance of a contract, grant, cooperative agreement, or other activity related to this system of records and who need to have access to the records in order to perform the activity.

(16) To the news media and the public, with the approval of the Public Affairs Officer in consultation with Counsel and the Senior Agency Official for Privacy, where there exists a legitimate public interest in the disclosure of the information, except to the extent it is determined that release of the specific information in the context of a particular case would constitute an unwarranted invasion of personal privacy or otherwise violate the FOIA.

DISCLOSURE TO CONSUMER REPORTING AGENCIES:

Pursuant to 5 U.S.C. 552a(b)(12), disclosures may be made to a consumer reporting agency as defined in the Fair Credit Reporting Act (15 U.S.C. 1681a(f)) or the Federal Claims Collection Act of 1996 (31 U.S.C. 3701(a)(3)).

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Case file records in manual form are maintained in file folders. Electronic records, including those created for the purpose of tracking case files, are maintained on the OHA computer network in user-authenticated, password-protected systems that are compliant with the Federal Information Security Management Act. All records are accessed only by authorized personnel who have a need to access the records in the performance of their official duties.

RETRIEVABILITY:

Both manual and electronic records are retrieved by the name of the appellant, claimant, or other party, or by designated OHA docket number.

SAFEGUARDS:

The records contained in this system are safeguarded in accordance with 43 CFR 2.226 and other applicable security rules and policies. Most of the records covered by this notice are in paper form. Access is provided on a need-to-know basis. Manual records are maintained in locked file cabinets located in secured rooms or DOI facilities. Electronic data are protected through user identification, passwords, database permissions, and software controls. Computers and storage media are encrypted in accordance with DOI security policy. Computers containing files are password protected to restrict unauthorized access. The DOI computers and servers storing this information are located in secured DOI facilities with access codes, security codes, and security guards. Access to electronic data is limited to DOI personnel who have a need to know the information for the performance of their official duties.

Personnel authorized to access systems must complete all Security, Privacy, and Records Management training and sign the DOI Rules of Behavior. A separate Privacy Impact Assessment for the electronic database (the OHA Docket Management System) has been conducted to ensure appropriate controls and safeguards are in place to protect the information within the system.

RETENTION AND DISPOSAL:

Records other than Indian trust records are retained and disposed of in accordance with the OHA Records Disposal Schedule, which has been approved by the National Archives and Records Administration (Job No. N1-048-07-4), and the Office of the Secretary Records Disposal Schedule. The disposition is temporary. The disposition schedule varies, but most records are destroyed or deleted 7 years after closure of agency business. Paper

records are disposed of by shredding or pulping, and records contained on electronic media are degaussed or erased in accordance with 384 Departmental Manual 1.

Indian trust records are retained in accordance with a schedule, "Office of Hearings and Appeals - Trust Case Files," that has been approved by the National Archives and Records Administration (Job No. N1-048-10-8). The disposition is permanent.

SYSTEM MANAGER AND ADDRESS:

Director, Office of Hearings and Appeals, U.S. Department of the Interior, 801 N. Quincy Street, Suite 300, Arlington, Virginia 22203.

NOTIFICATION PROCEDURES:

An individual requesting notification of the existence of records on himself or herself should send a signed, written inquiry to the System Manager identified above. The request envelope and letter should both be clearly marked "PRIVACY ACT INQUIRY." A request for notification must meet the requirements of 43 CFR 2.235.

RECORDS ACCESS PROCEDURES:

An individual requesting records on himself or herself should send a signed, written inquiry to the System Manager identified above. The request should describe the records sought as specifically as possible. The request envelope and letter should both be clearly marked "PRIVACY ACT REQUEST FOR ACCESS." A request for access must meet the requirements of 43 CFR 2.238.

CONTESTING RECORDS PROCEDURES:

An individual requesting corrections or the removal of material from his or her records should send a signed, written request to the System Manager identified above. A request for corrections or removal must meet the requirements of 43 CFR 2.246.

RECORD SOURCE CATEGORIES:

Records in the system contain information submitted by individuals involved in hearings and appeals, including but not limited to appellants, claimants, intervenors, witnesses, government and Tribal officials, and other persons involved in the proceedings.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

BILLING CODE 4334-12

[FR Doc. 2015-11040 Filed: 5/6/2015 08:45 am; Publication Date: 5/7/2015]